UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/Sub.2/AC.4/2001/7
21 June 2001

ENGLISH
Original: ENGLISH/SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and Protection of Human Rights
Working Group on Indigenous Populations
Nineteenth session
23-27 July 2001
Item 8 of the provisional agenda

INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE, INCLUDING THE VOLUNTARY FUND FOR THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE AND REPORT OF THE ADVISORY GROUP

Information received from indigenous organizations

The present document contains information received from indigenous organizations relating to item 8 of the provisional agenda.

INDIAN MOVEMENT TUPAJ AMARU

[25 May 2001]
[Original: Spanish]

GE.01-14246 (E) 200701 230701

Declaration of Chajnacaya

We, the indigenous representatives of communities from the Department of Potosi, together with delegates from neighbouring countries and political and community authorities, meeting at the first round table on the subject of "Indigenous peoples and human rights", organized by the Indian Movement Tupaj Amaru, as part of the programme of activities of the International Decade of the World's Indigenous People, held in the Community of Chajnacaya on 26 and 27 September 2000, solemnly make this Declaration of Principles.

I. THE RIGHT TO LAND AND ITS NATURAL RESOURCES

1. We reaffirm that, after more than 500 years of colonial and subsequent neocolonial domination, no problem is or has been as immensely profound as that concerning Mother Earth (Pachamama) and her human expression, the indigenous Indian; this is not simply an ethnic or racial question, but essentially a matter of a social, political and economic entity.

2. We consider that the indigenous problem in its essence is inseparable from that of land, territories and natural resources, which constitute a vital element for the survival of the indigenous peoples of America and the world. The Earth and the Indian are one.

3. Our ancestral land, symbol of a mythology and inexhaustible source of life, regarded as a sacred gift and cultivated with respect, has succumbed to the market economy. Since that time, this morsel of eternity, this area of freedom has become a mere piece of merchandise, bought and sold in public auction.

4. On the threshold of the third millennium, we Amerindians, natives of these ancestral lands, turn our eyes and our thoughts to Mother Earth, who has been and who continues to be the lasting source of all life, the principle and the purpose of the Indian identity, our raison d'être and the main force of black and popular indigenous resistance.

5. We are fully aware that this fragile, wound-scored earth on which we have walked throughout our history is vital to the survival of the human race. It is the duty of the international community to protect it from the voracity of the transnational corporations.

6. The irony of it! More than five centuries after the conquest of America, indigenous people continue to be despoiled of their lands, to have their natural resources looted, and their persons delivered into the ferocious maw of the new feudal lords and the transnational corporations solidly implanted on indigenous territory.

7. The causes of the usurpation of pitilessly pillaged ancestral lands and their unjust and aberrant distribution derive from the legacy of colonialism and are to be found in the economic interests of the dominant class in power.

8. We, the participants in this round table, deplore the neoliberal policy initiated by the Government of Bolivia. Under this anti-national policy, our basic and strategic resources are delivered into the hands of the transnational monopolies and the enterprises fundamental to State sovereignty are being dismantled, including the National Railway Company, the Bolivian

Mining Corporation and its smelters, the Bolivian State Oil Corporation (YPFB), the airline company, the national electricity company and State telecommunications; even the social security system, health and national education are being privatized.

9. The Governments of the day, as part of their strategy of "improving the land market" to guarantee foreign investment in the rural sector, have replaced the value of traditional land use by its trade value and have replaced customary law regarding original ownership of land by large-scale private ownership. The result of this policy has been to concentrate large areas of farmland in a few hands, causing the flight of the original populations from the land.

10. According to the *Human Development Report* of the United Nations Development Programme (UNDP), 90 per cent of farmer land owners hold barely 11 per cent of agricultural land, while 10 per cent of owners (nouveaux riches) possess 89 per cent of farmland.

11. Despoiled of their lands, victims of blind law and of the market economy, the natives and original inhabitants of entire communities have taken the road to exile in search of better conditions of life; others succumb to the rural servitude of modern times or return to the mines on starvation wages, while other Indians work as porters in urban centres for a few cents.

II. THE RIGHT TO DEVELOPMENT IN THE CONTEXT OF GLOBALIZATION

12. When we analyse calmly, we observe that unequal, unjust and anarchical development as practised in the new international economic order, based on the law of the strongest, is incompatible with forms of indigenous social organization which take their inspiration from mutual cooperation, community work (Minka) and the collective nature of ownership.

13. In the planet-wide process of globalization of capital, markets and enterprises, the neoliberal orthodoxy imposed by the World Bank, the International Monetary Fund and the development assistance agencies is leading the peoples of America, especially the indigenous populations, down the road to genocide, the annihilation of historical communities, the destruction of the environment and extreme poverty.

14. General Assembly resolution 41/128 states: "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development."

15. In open defiance of these provisions, the interference of the transnational corporations in all spheres of the economy constitutes the greatest obstacle to the realization of the economic, social and cultural rights set out in the international instruments.

16. The vastness of their universe, their magnitude and their immense hegemonic powers make the transnational corporations into super-States within nation States; spider-like, they weave their webs round the production and distribution of goods and services and exploit cheap labour.

17. We urge States and the international community urgently to draw up a code of conduct to regulate the activities of the transnationals which, with impunity, pillage basic resources and mutilate Mother Earth, who then provides a less generous welcome.

18. We consider that the dominant economic thinking in the world contradicts the concept of free and sovereign development, due to the fact that for neoliberalism the development of man and society takes place in the anarchical interplay of blind market forces.

19. In the process of the neocolonialization of our continent by the highly developed countries, under the hegemony of the United States of America and with the complicity and cynicism of the dominant power elites, colonial and military dictatorship is succeeded by another dictatorship, that of the market, with devastating consequences for the survival of the indigenous peoples.

20. We, the indigenous peoples, aware that the neoliberal model has become a question of life or death, advocate new parameters for development, namely: knowledge of how to control economic laws, placing them at the service of man, the rationalization of natural resources and the restoration of biological diversity.

21. Ultimately, we advocate other alternatives to the ultraliberal model, which should place man and his dignity on the topmost step of integrated, sustainable development in order to reconcile four main aspects, namely: reasonably planned economic growth, social justice, a sustainable environmental policy and a just and fair distribution of wealth.

III. THE ENVIRONMENT AND AIR AND WATER POLLUTION

22. We urge States and the international community to pay special attention to solving the worldwide ecological crisis, resulting from development which causes inequality, chaos and depredation, with serious consequences for the survival of mankind. Today more than ever we hear the call of our ancestral earth who, stricken and facing the prospect of death, calls for the love of her children.

23. For thousands of years the indigenous civilizations have evolved in harmony with the laws of nature and in equilibrium with the natural environment. Conquest and colonization, however, were the cause of the rupture of this social and natural equilibrium in the development of the indigenous peoples.

24. Our ancestors from America knew how to cultivate their lands with respect, care for their plants with love and hunt animals strictly as their material and spiritual needs dictated. But "civilized" man, the colonizer, the American of European origin, ascribed to himself the right to usurp everything that had value for trade, mutilated the forests and exterminated more Indians than buffalo.

25. The old and the new colonial metropolises, with the United States of America and its transnational corporations at their head, are directly responsible for the collapse of the

environment and the pollution of our water and the air we breathe every day. It is a well-known fact that the economic and military powers emit the greater part of the gases that cause acid rain, storms, cyclones, floods and droughts.

26. In the opinion of the international scientific community, the present rate of pollutant emissions will certainly cause major changes in the climate, aggravating still further health, food and education problems in the poor nations.

27. We urge the international community to ensure that the industrialized countries and their accomplice Governments in developing countries, and in particular the transnational corporations, assume their historical responsibility for the compensation of our Mother Earth and the restitution of biological diversity and the ecological and genetic values threatened by destruction as a result of the doctrine of unlimited quantitative growth.

28. We who are taking part in this event have received positive evidence from the victims of the pollution of the water of La Lava, Kanqui and other communities.

29. We energetically condemn the Corporación Minera del Sur (COMSUR) (San Lorenzo en Chaquilla, Porco, Agual de Castilla, Andacava and others), which is the property of former President of the Republic, Mr. Gonzalo Sánchez de Lozada, for deliberately or involuntarily discharging toxic waste into the rivers of La Lava, Kanqui and other communities, causing the death of plants and animals; such acts are to be classified as crimes against human lives.

30. We urge the Government of Bolivia and the international community to ensure that the owners of COMSUR and its administrators take full responsibility for fair compensation for the material and moral damage to indigenous communities.

IV. THE SELF-DETERMINATION OF INDIGENOUS PEOPLES IN INTERNATIONAL LAW

31. We declare that, under international law and in accordance with international instruments, indigenous peoples have a full right to self-determination. Under this inalienable right inherent to all peoples, great or small, indigenous nations and communities will freely determine their own way of life and political status, promote their own economic and social development and dispose freely of their wealth, in accordance with their customs, traditions and indigenous laws within a framework of mutual cooperation with the national community.

32. We wish to draw attention to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights which state in article 1 that: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

33. For the purposes of the draft United Nations Declaration on the rights of indigenous peoples, self-determination is taken to mean the powers indigenous peoples and communities of origin should have, within the nation State, to exercise the right to manage their land and natural resources and develop education and culture, as well as health, education, employment and social well-being, by means of regulations and bodies for their own self-government.

34. In an absolute form of democracy and social justice, States should have the obligation to recognize this legitimate and inalienable right of indigenous peoples, without restriction or discrimination, to regulate its realization and to guarantee its full exercise, in accordance with the Charter of the United Nations.

35. We urge the United Nations bodies to ensure that the Open-ended Intersessional working group on a draft United Nations Declaration on the rights of indigenous peoples adopts the declaration rapidly in the context of the International Decade of the World's Indigenous People.

36. We further urge the States to express the political will which will enable a Permanent Forum on Indigenous Issues to be established in the United Nations system.

37. We request the United Nations High Commissioner for Human Rights to strive to promote indigenous rights and to provide facilities to our permanent representative to the United Nations in his work of defending the rights and actions of the indigenous peoples.

THE NETHERLANDS CENTRE FOR INDIGENOUS PEOPLES

[30 May 2001]
[Original: English]

Indigenous Peoples' Millennium Conference Statement
Panama City, Panama, 7-11 May 2001

We, the Indigenous Peoples of all regions of the World - Arctic/Europe, Africa, Asia, North America, Central and South America and the Caribbean, Pacific, and former USSR/Eastern Europe - attending the Indigenous Peoples' Millennium Conference in Panama City from 7 to 11 May 2001:

Note with satisfaction the active presence of all of the regions of the world at this Conference and our progress in understanding each other's realities. Whether we identify ourselves as Indigenous, Aboriginal, Tribal, Autonomous, First Nations, Native Peoples, First Peoples or by other terms, it gives us great pride, hope and satisfaction that as Peoples we can, together, work ardently for the recognition of our rights and the preservation and restoration of our values, cultural identities and way of life.

Have discussed several topics of great concern to us. Among these were:

- The International Decade of the World's Indigenous People;

- The upcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

- The Draft United Nations Declaration on the rights of indigenous peoples;

- The Permanent Forum on Indigenous Issues;

- The United Nations studies on the treaties, land and cultural heritage of indigenous peoples;

- Indigenous peoples and economic colonization and globalization, in particular in the context of the TRIPS Agreement, WTO, IMF, WIPO, the Convention on Biological Diversity, the Framework Convention on Climate Change, the World Bank and Agenda 21;

- The OAS process;

- ILO and United Nations specialized agencies; and

- Conflict resolution, human rights instruments and complaint procedures.

As a result of these discussions, we have formed a global consensus in the following areas:

I. With regard to previous statements:

Endorse the following statements of Indigenous Peoples, their representatives and organizations, made in preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban, South Africa, 31 August-7 September 2001:

Community Consultation on Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Kampala, Uganda, 30 April-3 May 2001

Indigenous Peoples and Racism Conference: Regional meeting of Indigenous Peoples of Australia, New Zealand, Hawaii and the United States, held in Sydney, Australia, 20-22 February 2001

Declaration of Indigenous Peoples of the Americas, adopted in Santiago de Chile, 5-7 December 2000

The Abokobi Declaration, adopted in Ghana, 7-10 April 2001

The Kidal Declaration, adopted in Kidal, Mali, 8-13 January 2001

II. With regard to Indigenous Peoples, the right of self-determination, the right to land and territories including submerged lands, waters and natural resources:

Call upon States to finally recognize that Indigenous Peoples are "Peoples", with the full meaning that attaches to that term under international law. As Indigenous representatives have stated repeatedly, throughout the years, it is inconsistent to distinguish between the human rights of Indigenous Peoples and other peoples. This has the purpose or effect of nullifying and impairing all the human rights of Indigenous Peoples. It is therefore racist and constitutes race-based discrimination. It is an affront to our human dignity;

Reiterate that among the human rights violated is the fundamental right of self-determination. We hold it self-evident that as "Peoples", Indigenous Peoples have the same right of self-determination as all other peoples of the world;

Reiterate further that it is time that States recognize the unique spiritual relationship between Indigenous Peoples and our lands and territories, including submerged lands, waters and natural resources, and that the right to these resources is inseparably linked to our right of self-determination;

With regard to our ancestral lands, call upon the world community to recognize and adequately address a new form of racism, that of environmental racism. The world community must immediately prevent the ruination of Indigenous lands and waters, including by rising sea levels due to ozone depletion, and the depletion of our natural resources, submerged lands and waters, through the prevention of so-called development schemes and unsustainable practices such as overfishing, mining, deforestation, the dumping of contaminated waste and other land-use practices that do not respect but do discriminate against our way of life;

III. With regard to Indigenous Peoples' cultural heritage and identity, genetic resources, traditional knowledge, expressions of folklore and other such resources:

Recognize that the extension of colonialism, in all its expressions, continues to divest Indigenous Peoples of our ancestral lands and territories, traditional knowledge, of our cultural and intellectual heritage, spiritual practices and our way of life. This is the cause of the loss and ruination of our identities and our cultures and, even now, extends to the loss of our plant, animal and human genetic resources;

Hold it self-evident that all rights to Indigenous Peoples' cultural heritage, genetic resources, traditional knowledge and expressions of folklore are inherently ours;

Recognize the paramount impact that international agreements and institutions, such as the Convention on Biological Diversity, the TRIPS Agreement, WTO, IMF, WIPO, UNCTAD, the Framework Convention on Climate Change, the World Bank and Agenda 21 have on the lives of Indigenous Peoples. It is therefore fundamental that Indigenous Peoples be given full and effective participation in all the work carried out within such institutions. We urge States and financial institutions to provide funds and other resources to facilitate the participation of Indigenous Peoples in these forums;

Recognize further the need to inform and educate members of Indigenous communities about the Convention on Biological Diversity, the TRIPS Agreement, WTO, IMF, WIPO, the World Bank, UNCTAD, Agenda 21 and other international agreements and institutions and the processes relating to them so that whatever decisions Indigenous communities decide to take with regard to their genetic resources, traditional knowledge, folklore or other related matters are made with their free and prior informed consent;

Express great concern about the World Bank's current revisions of Operational Directive 4.20 on Indigenous Peoples and recommend the following:

- that the World Bank's Operation and Evaluation Department conduct and complete an open and participatory review of the Bank's implementation of Operational Directive 4.20 as a foundation for drafting its Operational Directives, Bank Practices and Sourcebook;

- that national and regional workshops be organized by the World Bank as part of its implementation review and revision process; and

- that the World Bank uphold international standards on human rights including providing for the free and prior informed consent of Indigenous Peoples to all World Bank programmes and projects affecting Indigenous Peoples;

Concerned that the activities of regional financial institutions and trade agreements, such as, inter alia, the Asian Development Bank, have resulted in the marginalization and impoverishment of Indigenous Peoples, we call on these institutions to:

- ensure that any project or programme that is carried out in Indigenous lands and territories is undertaken only with the full and prior informed consent, and with the full and effective participation, of the peoples concerned, and if such consent is not achieved, these institutions should withdraw from such areas;

- respect and promote Indigenous Peoples' rights; and,

- guarantee that these institutions' policies and programmes are given greater transparency.

Oppose the World Trade Organization agreements that violate the rights and well-being of Indigenous Peoples, particularly the Agreements on Agriculture and on Trade-Related Intellectual Property Rights (TRIPS). These illegitimate agreements undermine our diverse economics and cultural heritage;

Call for a moratorium on any further trade negotiations and agreements, subject to a review and revision of all existing agreements to meet the requirements for equity and sustainability;

Stand united with broad sections of civil society in condemning the undemocratic, inequitable and non-transparent character of the World Trade Organization;

Call on States to engage with organizations representing Indigenous Peoples within their land and territories, to explore alternative mechanisms for protecting the collective heritage, cultural identity, genetic resources, traditional knowledge and folklore of Indigenous Peoples;

IV. With regard to international environmental processes:

Urge Indigenous Peoples and their organizations to participate in international environmental processes including, inter alia: the Convention on Biological Diversity, the Framework Convention on Climate Change, the Ramsar Convention on Wetlands, the United Nations Convention to Combat Desertification and the Intergovernmental Forum on Forests;

Call for the active participation of Indigenous Peoples and their organizations in the World Summit on Sustainable Development (Rio + 10) to be held in Johannesburg, South Africa, in September 2002, as well as in the preparatory activities at the local, national, sub-regional and international levels;

Noting that the General Assembly Resolution on Rio + 10 "encourages effective contributions from and the active participation of all major groups as identified in Agenda 21, at all stages of the preparatory process" and "stresses that the preparatory meetings and the 2002 summit itself should be transparent and provide for ... contributions from and active participation of major groups", we call upon Governments and international agencies to:

- Review progress in the realization of the objectives and activities set out in Agenda 21 and in related instruments and processes with respect to Indigenous Peoples on the local, national, subregional, regional and international levels;

- Guarantee the full and effective participation of Indigenous Peoples in the preparation of national reports and the review of such reports;

- Guarantee the full and effective participation of Indigenous Peoples in the subregional and regional preparatory processes;

- Guarantee the full and effective participation of Indigenous Peoples in the Preparatory Committee meetings of the World Summit on Sustainable Development;

- Support the inclusion of Indigenous Peoples as a major theme of the Rio + 10 Summit as a contribution to review the International Decade of the World's Indigenous People and the proposed World Conference on Indigenous Peoples in 2004; and

- Guarantee the full and effective participation of Indigenous Peoples within the World Summit on Sustainable Development through the trust fund and other appropriate financial instruments.

V. With regard to the Permanent Forum on Indigenous Issues:

Welcome the establishment of the Permanent Forum on Indigenous Issues as a subsidiary body of the Economic and Social Council;

Endorse the regional divisions adopted by the Indigenous Caucus in Geneva on 26 November 2000, during the sixth session of the open-ended inter-sessional working group on the Draft United Nations Declaration on the rights of indigenous peoples, for the nomination of Indigenous members of the Permanent Forum. These regions are Arctic/Europe, Africa, Asia, North America, Central/South America and the Caribbean, Pacific, former USSR and Eastern Europe, and an additional seat to rotate between the three regions of Asia, Africa and Central/South America and the Caribbean. The first additional seat will go to the region Central/South America and the Caribbean;

Aware of the request of the United Nations Secretary-General to the Office of the High Commissioner for Human Rights to take the role of lead agency for the establishment of the Permanent Forum, and reiterate that the lack of a separate secretariat for the Permanent Forum will seriously hamper the fulfilment of the mandate of the Permanent Forum;

Request the United Nations Secretary-General to ensure that preference is given to Indigenous Peoples' candidates in the staffing of the secretariat as a promotion of the integration and coordination of activities relating to Indigenous issues within the United Nations system.

VI. Other important points:

Recommend a comprehensive review of the International Decade of the World's Indigenous People;

Call upon States - in consultation with Indigenous Peoples - to support in any way appropriate and necessary the work of the Special Rapporteur on indigenous issues, including providing the Special Rapporteur with adequate funding;

Urge States to commit themselves more strongly to the United Nations Voluntary Fund and increase their contributions thereto, in order to allow Indigenous representatives to participate effectively in all United Nations conferences and meetings of concern to them;

Call for a World Conference on Indigenous Peoples, to be held at the end of the International Decade of the World's Indigenous People in the year 2004.

VII. With regard to international conventions and declarations:

Call on the Parties to the Framework Convention on Climate Change to ensure and guarantee the full and effective participation of Indigenous Peoples within that process as has occurred in the Working Group on article 8 (j) of the Convention on Biological Diversity;

Urge States, where Indigenous Peoples so request, that have not yet ratified ILO Convention No. 169 on Indigenous and Tribal Peoples to do so. States that have already ratified ILO Convention No. 169 should work with Indigenous Peoples to implement and adhere to the principles and concepts of this Convention. States should further facilitate and ensure the participation of Indigenous Peoples in the ILO;

Recommend strongly the immediate adoption of the Draft United Nations Declaration on the rights of indigenous peoples, approved by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in resolution 1994/45. Where applicable, we further urge States and their regional State organizations to adopt the principles of the Draft United Nations Declaration on the Rights of Indigenous Peoples in applicable regional declarations on the rights of Indigenous Peoples.